

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Case No. 18-20249

Alexis Redd Rodgers,

Honorable Sean F. Cox

Defendant.

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**ORDER NOTIFYING DEFENDANT OF RECHARACTERIZATION AND DIRECTING  
DEFENDANT TO FILE MEMORANDUM**

Defendant Alexis Redd Rodgers pleaded guilty to drug offenses and was sentenced by this Court on April 10, 2019. Rodgers has not filed a direct appeal.

Acting *pro se*, Rodgers sent a written request to this Court, that was filed on the docket on July 1, 2019, asking this Court to vacate his sentence and impose a reduced sentence.

Although Rodgers' request does not cite the legal authority under which he asks this Court to vacate his sentence, the relief requested is consistent with a motion to vacate sentence under 28 U.S.C. § 2255 and is therefore the equivalent of a petition under § 2255. Before characterizing Rodgers' written request as a § 2255 motion, however, he must be given the opportunity to withdraw the filing. *See In re Shelton*, 295 F.3d 620, 622 (6th Cir. 2002). This is because "[a]n unintended byproduct of [liberally construing *pro se* filings as § 2255 petitions] . . . is that it may effectively deprive an uninformed *pro se* litigant of the future opportunity to file a motion to vacate his sentence under § 2255." *Id.* at 621. After a prisoner files one motion under § 2255, the Antiterrorism and Effective Death Penalty Act generally prevents a prisoner from

filing a second or successive § 2255 motion. Thus, the prisoners must be aware that the Court's construction of their petition may limit their ability to pursue future avenues of collateral relief and must be given the opportunity to either agree with the Court's construction or withdraw their motion.

Accordingly, **Rodgers is hereby NOTIFIED that the Court intends to construe his July 1, 2019 written request as a motion for relief under 28 U.S.C. § 2255.**

Rodgers is **ORDERED** to file a one-page memorandum on or before **August 30, 2019**, indicating whether he agrees with the Court's intended characterization of his written request or whether he wishes to withdraw that request. In the event that Rodgers does not file a memorandum on or before August 30, 2019, Rodgers' written request filed on July 1, 2019 will be deemed a motion under § 2255.

**IT IS SO ORDERED.**

s/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: July 11, 2019